

# Multiple Agency Fiscal Note Summary

<b>Bill Number:</b> 2793 2S HB AMS LAW S7013.1	<b>Title:</b> Criminal records/vacating
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## Estimated Cash Receipts

NONE

## Estimated Operating Expenditures

Agency Name	2019-21			2021-23			2023-25		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Administrative Office of the Courts	2.5	1,213,806	1,213,806	4.3	1,431,952	1,431,952	4.0	792,292	792,292
Administrative Office of the Courts	In addition to the estimate above, there are additional indeterminate costs and/or savings. Please see individual fiscal note.								
Washington State Patrol	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Department of Corrections	.0	0	0	.0	0	0	.0	0	0
<b>Total \$</b>	<b>2.5</b>	<b>1,213,806</b>	<b>1,213,806</b>	<b>4.3</b>	<b>1,431,952</b>	<b>1,431,952</b>	<b>4.0</b>	<b>792,292</b>	<b>792,292</b>

Agency Name	2019-21			2021-23			2023-25		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Courts	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Loc School dist-SPI									
Local Gov. Other	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Local Gov. Total									

## Estimated Capital Budget Expenditures

Agency Name	2019-21			2021-23			2023-25		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Administrative Office of the Courts	.0	0	0	.0	0	0	.0	0	0
Washington State Patrol	.0	0	0	.0	0	0	.0	0	0
Department of Corrections	.0	0	0	.0	0	0	.0	0	0
<b>Total \$</b>	<b>0.0</b>	<b>0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0</b>	<b>0.0</b>	<b>0</b>	<b>0</b>

## Estimated Capital Budget Breakout

<b>Prepared by:</b> Gaius Horton, OFM	<b>Phone:</b> (360) 902-0608	<b>Date Published:</b> Final 3/11/2020
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# Judicial Impact Fiscal Note

<b>Bill Number:</b> 2793 2S HB AMS LAW S7013.1	<b>Title:</b> Criminal records/vacating	<b>Agency:</b> 055-Administrative Office of the Courts
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## Part I: Estimates

☐ No Fiscal Impact

### Estimated Cash Receipts to:

NONE

### Estimated Expenditures from:

STATE	FY 2020	FY 2021	2019-21	2021-23	2023-25
State FTE Staff Years		5.0	2.5	4.3	4.0
Account					
General Fund-State 001-1		1,213,806	1,213,806	1,431,952	792,292
State Subtotal \$		1,213,806	1,213,806	1,431,952	792,292
COUNTY	FY 2020	FY 2021	2019-21	2021-23	2023-25
County FTE Staff Years					
Account					
Local - Counties					
Counties Subtotal \$					
CITY	FY 2020	FY 2021	2019-21	2021-23	2023-25
City FTE Staff Years					
Account					
Local - Cities					
Cities Subtotal \$					

In addition to the estimates above, there are additional indeterminate costs and/or savings. Please see discussion.

*The revenue and expenditure estimates on this page represent the most likely fiscal impact. Responsibility for expenditures may be subject to the provisions of RCW 43.135.060.*

Check applicable boxes and follow corresponding instructions:

- ☒ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.

Legislative Contact: Corban Nemeth	Phone: 360-786-7736	Date: 03/04/2020
Agency Preparation: Sam Knutson	Phone: 360-704-5528	Date: 03/05/2020
Agency Approval: Ramsey Radwan	Phone: 360-357-2406	Date: 03/05/2020
OFM Review: Gaius Horton	Phone: (360) 902-0608	Date: 03/05/2020

161,062.00

Request # 2793 AMS-1

Form FN (Rev 1/00)

1

Bill # 2793 2S HB AMS LAW S7013.1

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact on the Courts

Please see attached Judicial Impact Note (JIN).

II. B - Cash Receipts Impact

II. C - Expenditures

Part III: Expenditure Detail

III. A - Expenditure By Object or Purpose (State)

State	FY 2020	FY 2021	2019-21	2021-23	2023-25
FTE Staff Years		5.0	2.5	4.3	4.0
Salaries and Wages		378,697	378,697	659,194	560,994
Employee Benefits		113,609	113,609	197,758	168,298
Professional Service Contracts		250,000	250,000	500,000	
Goods and Other Services		428,500	428,500	45,000	40,000
Travel		8,000	8,000	16,000	16,000
Capital Outlays		35,000	35,000	14,000	7,000
Inter Agency/Fund Transfers					
Grants, Benefits & Client Services					
Debt Service					
Interagency Reimbursements					
Intra-Agency Reimbursements					
Total \$		1,213,806	1,213,806	1,431,952	792,292

In addition to the estimates above, there are additional indeterminate costs and/or savings. Please see discussion.

III. B - Expenditure By Object or Purpose (County)

Non-zero but indeterminate cost and/or savings. Please see discussion.

III. C - Expenditure By Object or Purpose (City)

Non-zero but indeterminate cost and/or savings. Please see discussion.

III. D - FTE Detail

Job Classification	Salary	FY 2020	FY 2021	2019-21	2021-23	2023-25
Legal Analyst			1.0	0.5	1.0	1.0
Pilot / Program Coordinator			1.0	0.5	1.0	1.0
Research Assistants			2.0	1.0	2.0	2.0
Senior System Integrator			1.0	0.5	0.3	
Total FTEs			5.0	2.5	4.3	4.0

III. E - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

161,062.00

Form FN (Rev 1/00)

Request # 2793 AMS-1

Bill # 2793 2S HB AMS LAW S7013.1

161,062.00

Form FN (Rev 1/00)

Request # 2793 AMS-1

Bill # 2793 2S HB AMS LAW S7013.1

## **Part II: Narrative Explanation**

This bill would require the Administrative Office of the Courts (AOC) to conduct a study and a pilot project on streamlining the vacation of criminal convictions under RCW 9.96.060(2)(b) and (5)(a) and RCW 9.94A.640(2) through an administrative, court-driven process.

### **Part II.A – Brief Description of what the Measure does that has fiscal impact on the Courts**

Section 1(1) – The AOC would be required to conduct a study and a pilot project on streamlining the vacation of criminal convictions under RCW 9.96.060(2)(b) and (5)(a) and RCW 9.94A.640(2) through an administrative, court-driven process.

Section 1(2) – The AOC would be required to:

- (a) Determine the types of data currently available to the AOC to assess eligibility under RCW 9.96.060(2)(b) and (5)(a) and RCW 9.94A.640(2);
- (b) Evaluate additional types of information that should be reported to judicial information systems or directly to sentencing courts or the AOC to improve the reliability of the screening process;
- (c) Propose procedures for conducting queries of available records to assess eligibility;
- (d) Assess whether any changes to laws, policies, or practices or additional resources are necessary to improve the reliability of the process for the pilot program and for launching a similar program statewide;
- (e) Develop an implementation plan for the pilot program required in Section 2; and
- (f) Make additional recommendations deemed appropriate and necessary by the AOC.

Section 1(3) – Would require the AOC to report to the Governor and appropriate committees of the Legislature, as follows:

- (a) A report with findings, recommendations, and an implementation plan to be submitted by December 1, 2020;
- (b) A status update on the pilot program submitted by December 1, 2021; and
- (c) A final report on the pilot program, including a summary of data collected under the conditions of Section 2 and other findings and recommendations, submitted by December 1, 2022.

Section 1(4) – Would require the AOC to consult with county clerks, court administrators, judges, prosecuting attorneys, defense attorneys, the Department of Corrections (DOC), county and city departments, national and local organizations with interest or experience in vacating or sealing criminal convictions, national and local organizations with experience in developing automated vacating or sealing procedures in other states, organizations and persons with relevant technical expertise in computer and records systems, and any other entities with relevant records.

Section 2(1) – Would require the AOC to conduct a pilot program for streamlining the vacation of criminal convictions under RCW 9.96.060(2)(b) and (5)(a) and RCW 9.94A.640(2) through an administrative, court-driven process. Subsequent to consulting with courts of general and limited jurisdiction, the AOC would be required to select a county in which to conduct the pilot program. Sentencing courts within the county selected would be required to comply with the requirements of this Section, and would be required to provide information to the AOC necessary for the reporting requirements detailed in subsection (4).

Section 2(2) – Would require that when conducting the pilot program, the AOC shall review convictions from the participating county for the purpose of determining whether those convictions should be scheduled for administrative vacation hearings. The AOC may limit the screening process to certain types or classes of convictions of defendants. The process must:

- (a) Review convictions beginning at the earliest period for which electronic court records are reliable, but no later than January 1, 2000;
- (b) Rely on records available to the AOC through judicial information systems and other agencies, including (but not limited to) the Washington State Patrol (WSP) and DOC;
- (c) Determine whether a defendant is currently incarcerated for a criminal offense, and whether available records indicate that person is precluded from qualifying to vacate their conviction;
- (d) Notify sentencing courts to schedule administrative vacation hearings for any defendant where a review of available records does not indicate that the defendant is precluded from qualifying to vacate their conviction;
- (e) Prioritize potentially qualifying defendants according to criteria established by the AOC so as not to hinder sentencing courts with excessive notifications; and
- (f) Review records and provide notifications on a monthly or quarterly basis, as determined by the AOC.

Section 2(3)(a) – Would require that beginning July 1, 2021, through June 30, 2022, sentencing courts within the county selected for the pilot program would be required to conduct regularly scheduled administrative vacation hearings.

Section 2(3)(b) – Would require that when a participating court receives notice from the AOC regarding a potentially qualifying candidate, the court shall set an administrative vacation hearing. Would require that at the administrative vacation hearing the court shall determine whether to vacate the conviction based on the requirements of the particular offense under RCW 9.96.060(2)(b) and (5)(a) and RCW 9.94A.640(2). The defendant is presumed to meet the requirements and the court would be required to vacate the conviction, unless: court records indicate that the defendant does not meet the requirements, or the prosecutor objects on the basis that the defendant does not meet the requirements, or that the defendant is currently incarcerated for a criminal offense. Would require that if the court determines the defendant is not currently eligible, but is likely to be eligible in the future, the court may set a subsequent administrative vacation hearing at an appropriate date determined by the court.

Section 2(4) – Would require the AOC to collect the following information with respect to convictions where notifications were sent to sentencing courts through the pilot program, including: the number of notifications sent to sentencing courts, the number of administrative hearings held, the number of vacations granted at administrative hearings, the number of convictions where the court set a future administrative hearing based on predicted eligibility, the number of convictions where the court declined to vacate the convictions without setting a future administrative hearing, and other data deemed relevant by the AOC. The AOC would be required to include a summary of the data, including by type of court and for the entire pilot program.

## **II.B - Cash Receipt Impact**

None.

## **II.C – Expenditures**

The AOC does not have the necessary staff resources, data resources, processes, and reporting capabilities to meet the incarceration provisions of this bill striker. The AOC assumes consultant time, additional AOC staff, report development, forms, bench books, other judicial resources, and information technology (IT) modifications would be required to implement the pilot / program.

#### **Pilot / Program Implementation Notes**

This bill striker differs from 2SHB 2793 by requiring the AOC to consult with courts and other stakeholders to develop a pilot program in a selected county that would be designed in a manner so as to provide for statewide implementation. The striker would require the AOC to conduct a pilot program for streamlining the vacation of criminal convictions under RCW 9.96.060(2)(b) and (5)(a) and RCW 9.94A.640(2) through an administrative, court-driven process. Subsequent to consulting with courts of general and limited jurisdiction, the AOC would be required to select a county in which to conduct the pilot program.

A significant amount of work would be required at implementation for the pilot program. The AOC does not currently have the staff and other resources needed to complete the work necessary for implementation. Incarceration verification work and report development would be required. Limiting these tasks to a pilot county may reduce the amount of research staff needed, but would not eliminate these costs. If the pilot program is determined to be successful and statewide implementation occurs, the full requested staffing would be required.

#### **Consultant Costs**

The AOC assumes that a consultant would be retained to work with the AOC, county clerks, court administrators, judges, prosecuting attorneys, Department of Corrections, Washington State Patrol, county and city departments, national and local organizations, and other entities with technical experience in computer and records systems to lead and conduct the pilot program required by this bill. It is assumed the consultant would work with the AOC to select the county for participation in the pilot program.

The consultant would be required to:

- (g) Determine the types of data currently available to the AOC to assess eligibility under RCW 9.96.060(2)(b) and (5)(a) and RCW 9.94A.640(2);
- (h) Evaluate additional types of information that should be reported to judicial information systems or directly to sentencing courts or the AOC to improve the reliability of the screening process;
- (i) Propose procedures for conducting queries of available records to assess eligibility;
- (j) Assess whether any changes to laws, policies, or practices or additional resources are necessary to improve the reliability of the process for the pilot program and for launching a similar program statewide;
- (k) Develop an implementation plan for the pilot program required in Section 2; and
- (l) Make additional recommendations deemed appropriate and necessary by the AOC.

The consultant would further be required to fulfill the following reporting requirements to the Governor and appropriate committees of the legislature:

- (a) A report with findings, recommendations, and an implementation plan to be submitted by December 1, 2020;
- (b) A status update on the pilot program submitted by December 1, 2021; and



- (c) A final report on the pilot program, including a summary of data collected under the conditions of Section 2 and other findings and recommendations, submitted by December 1, 2022.

The consultant would be required to work with the AOC to review convictions from the selected participating county to determine whether those convictions should be scheduled for administrative vacation hearing.

The AOC assumes the consultant retained to fulfill the requirements of this bill must have experience in law, judicial branch operations and court processes, information technology solutions, pilot / program management, and Washington state legislative processes and statutes. It is estimated that consultant costs would be \$250,000 per year through Fiscal Year 2023.

### **Information Technology Costs**

The AOC assumes information technology modifications will be required for the pilot program. New coding, queries, reporting capabilities, business analysis, and testing would be required.

The following table displays estimated IT (and related) development and modification costs.

**Table I – IT (and related) Modifications**

<b>Description</b>	<b>Estimated Hours</b>	<b>Cost</b>
<sup>1</sup> Codes needed for report development; District and Municipal Courts (new codes for tracking vacation conviction proceedings and case conditions codes); Superior Courts (new codes for the orders entered as the result of the vacation conviction proceedings).	<sup>2</sup> 530	\$79,500
<b>(a) Initial</b> development of potential eligibility reports: gathering report requirements, writing the query, testing, analysis and validation. Requirements gathering, analysis, and validation require work completed by business analysts and Legal Services staff. It is assumed the AOC's system integrators would write the queries and prepare the reports. <b>(b) Initial</b> development necessary to produce caseload reports on conviction vacation outcomes. Tasks require completion of a statewide data warehouse, extract, transform, and load functions necessary for differing source system data, data universe design changes to accommodate new data fields and queries, caseload report building, and testing.	1,000	\$150,000
<b>Initial</b> tasks associated with building new web pages for reporting HTML conviction vacation outcomes on <a href="http://www.Courts.wa.gov">www.Courts.wa.gov</a> . This would include monthly, year-to-date, and annual reports for each court level's published caseloads.	1,000	\$150,000
<b>Initial</b> business analysis tasks for changes required to published caseload reports and web page changes.	<sup>3</sup> 160	\$24,000
<b>Sub-Total, IT and related modifications</b>	<b>2,690</b>	<b>\$403,500</b>

<sup>1</sup> One-time costs unless additional codes are deemed necessary as the result of feedback from courts and other stakeholders.

<sup>2</sup> Code implementation includes task assignments to business analysts, educators for manual updates, programmers and testers. Implementation includes Enterprise Data Repository mapping to existing data elements and associated tasks.

<sup>3</sup> One-time costs for development.

### **AOC Staffing Costs**

The AOC currently does not have the necessary staff resources to implement the pilot program required by this bill.

The following table displays costs and responsibilities associated with staff required for pilot / program implementation.

**Table II – Staff Summary**

<b>Position</b>	<b>FTE</b>	<b>Description</b>
Pilot / Program Coordinator	1.0 (ongoing)	Implement and manage the pilot program, manage and direct pilot program staff, conduct court and stakeholder reviews, data reporting and other program deliverables.
Legal Analyst	1.0 (ongoing)	Analyze legislative changes and their impacts to pilot program deliverables and facilitate current and ongoing changes to court rules, forms, brochures, bench books, and other judicial resource documentation.
Senior System Integrator	1.0 (two years)	Technical support required for oversight and completion of IT and related tasks associated with the pilot program.
Research Assistants	2.0 (ongoing)	Provide incarceration research for each case defendant on scheduled reports for each court. It is estimated 1.0 FTE would be dedicated to superior courts and 1.0 FTE for district and municipal courts.
<b>Total</b>	<b>5.0</b>	

### **Indeterminate Costs**

Additional resource expenditures for staff time and mailing costs will be borne by local courts in order to send administrative hearing notices to case defendants to meet constitutional and due process considerations. The AOC estimates that each administrative hearing notice will require at least fifteen minutes of staff time for each administrative or contested hearing, print notices, and prepare mailings. At this time, there is no data available to estimate the number of hearings that would be required, thus the estimated cost for these efforts is indeterminate.

Judicial officers needed for administrative review hearings may increase the active pending civil cases as a result of moving judges from civil hearings to administrative vacation hearings. The estimated costs for this is indeterminate.

It is assumed that county clerks and district and municipal court staff will experience an increase in workload to transmit all of the vacated conviction orders anticipated under the proposed pilot program. At this time, it is unknown what this workload will encompass. Thus, the estimated cost for these efforts is indeterminate.

## **Part III: Expenditure Detail**

### **III.A – Expenditures by Object or Purpose**

Object	2020	2021	2019 - 2021	2022	2023	2021-2023
FTE		5.0	2.5	5.0	4.0	4.5
Salaries		378,697	378,697	378,697	280,497	659,194
Benefits		113,609	113,609	113,609	84,149	197,758
Consultant		250,000	250,000	250,000	250,000	500,000
Goods/Services		25,000	25,000	25,000	20,000	45,000
Travel		8,000	8,000	8,000	8,000	16,000
Equipment		35,000	35,000	10,500	3,500	14,000
IT Modifications		403,500	403,500	-	-	-
<b>Total</b>	<b>-</b>	<b>1,213,806</b>	<b>1,213,806</b>	<b>785,806</b>	<b>646,146</b>	<b>1,431,952</b>

### III.B – Detail:

Job Classification	Salary	FY 2020	FY 2021	2019-21	2021-23	2023-25
Pilot / Program Coordinator			1.0	0.5	1.0	1.0
Legal Analyst			1.0	0.5	1.0	1.0
Senior System Integrator			1.0	0.5	0.5	
Research Assistants			2.0	1.0	2.0	2.0
<b>Total FTE's</b>			<b>5.0</b>	<b>2.5</b>	<b>4.5</b>	<b>4</b>

### Part IV: Capital Budget Impact

None.

### Part V: New Rule Making Required

None.

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 2793 2S HB AMS LAW S7013.1	<b>Title:</b> Criminal records/vacating	<b>Agency:</b> 225-Washington State Patrol
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## Part I: Estimates

☐ No Fiscal Impact

### Estimated Cash Receipts to:

NONE

### Estimated Operating Expenditures from:

Non-zero but indeterminate cost and/or savings. Please see discussion.

### Estimated Capital Budget Impact:

NONE

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

- ☒ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.
- ☐ Requires new rule making, complete Part V.

Legislative Contact: Corban Nemeth	Phone: 360-786-7736	Date: 03/04/2020
Agency Preparation: Mario Buono	Phone: (360) 596-4072	Date: 03/09/2020
Agency Approval: Walter Hamilton	Phone: 360-596-4046	Date: 03/09/2020
OFM Review: Jenna Forty	Phone: (360) 902-0419	Date: 03/09/2020

## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.*

The striking amendment to the second substitute version of this legislation changes the fiscal impact to the Washington State Patrol (WSP).

This legislation requires the Administrative Office of the Courts (AOC) to conduct a study and pilot project on streamlining the vacation of criminal convictions under RCW 9.96.060(2)(b) and (5)(a) and 9.94A.640(2) through an administrative, court-driven process beginning July 1, 2021 through June 30, 2022. Within the pilot program, the AOC will select a county, and the courts within that county will participate in the pilot program.

The records vacated during this pilot program will be submitted to the WSP to be vacated in the Washington State Identification System (WASIS). At this time, it is unknown which county will participate in the pilot program or what the potential workload impact will be.

As a result, there will be an indeterminate fiscal impact to the WSP to update records in WASIS.

### II. B - Cash receipts Impact

*Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.*

There are no cash receipts to the WSP from this legislation.

### II. C - Expenditures

*Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.*

The records vacated during this pilot program will be submitted to the WSP to be vacated in WASIS. For the limited scope of the pilot program, we anticipate a workload impact of 1.0 FTE of a Correctional Records Technician 1 for every 6,500 records that will need updated. We estimate this potential cost at \$118,000 per FTE in FY22. At this time, it is unknown which county will participate in the pilot program or what the potential workload impact will be.

As a result, there will be an indeterminate fiscal impact to the WSP to update records in WASIS.

## Part III: Expenditure Detail

### III. A - Operating Budget Expenditures

Non-zero but indeterminate cost and/or savings. Please see discussion.

### III. B - Expenditures by Object Or Purpose

Non-zero but indeterminate cost and/or savings. Please see discussion.

**III. C - Operating FTE Detail:** *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

NONE

**III. D - Expenditures By Program (optional)**

NONE

**Part IV: Capital Budget Impact**

**IV. A - Capital Budget Expenditures**

NONE

**IV. B - Expenditures by Object Or Purpose**

NONE

**IV. C - Capital Budget Breakout**

*Identify acquisition and construction costs not reflected elsewhere on the fiscal note and describe potential financing methods*

NONE

**Part V: New Rule Making Required**

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 2793 2S HB AMS LAW S7013.1	<b>Title:</b> Criminal records/vacating	<b>Agency:</b> 310-Department of Corrections
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## Part I: Estimates

☒ **No Fiscal Impact**

### Estimated Cash Receipts to:

NONE

### Estimated Operating Expenditures from:

NONE

### Estimated Capital Budget Impact:

NONE

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

- ☐ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.
- ☐ Requires new rule making, complete Part V.

Legislative Contact: Corban Nemeth	Phone: 360-786-7736	Date: 03/04/2020
Agency Preparation: Cecilia Lambert-Zal	Phone: 360-725-8695	Date: 03/06/2020
Agency Approval: Michael Steenhout	Phone: 360-725-8270	Date: 03/06/2020
OFM Review: Cynthia Hollimon	Phone: (360) 902-0562	Date: 03/09/2020

## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.*

The legislation requires the administrative office of the courts (AOC) to conduct a pilot project to study administrative process used to vacate the criminal convictions under RCW 9.96.060 (2) (b) and (5) (a) and 9.94A.640 (2).

The administrative process established the pilot program is to be implemented beginning July 1, 2021 and stream for the 2022 Fiscal Year.

Beyond participating in data sharing with AOC, as required in section (2) (2) (b), this bill does not significantly impact DOC.

### II. B - Cash receipts Impact

*Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.*

None.

### II. C - Expenditures

*Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.*

We assume no fiscal impact to the Department of Corrections (DOC).

## Part III: Expenditure Detail

### III. A - Operating Budget Expenditures

NONE

### III. B - Expenditures by Object Or Purpose

NONE

**III. C - Operating FTE Detail:** *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

NONE

### III. D - Expenditures By Program (optional)

NONE

## Part IV: Capital Budget Impact

### IV. A - Capital Budget Expenditures

NONE

### IV. B - Expenditures by Object Or Purpose

NONE



**IV. C - Capital Budget Breakout**

*Identify acquisition and construction costs not reflected elsewhere on the fiscal note and describe potential financing methods*

NONE

None.

**Part V: New Rule Making Required**

# LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

<b>Bill Number:</b> 2793 2S HB AMS LAW S7013.1	<b>Title:</b> Criminal records/vacating
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## Part I: Jurisdiction-Location, type or status of political subdivision defines range of fiscal impacts.

### Legislation Impacts:

- ☐ Cities:
- ☒ Counties: Indeterminate costs for prosecutors' offices to request and review criminal histories and court records; potential costs for prosecutors due to hearings
- ☐ Special Districts:
- ☒ Specific jurisdictions only: Costs are specific to a county selected by the Administrative Office of the Courts for the implementation of a pilot program from July 1, 2021, through June 30, 2022
- ☐ Variance occurs due to:

## Part II: Estimates

- ☐ No fiscal impacts.
- ☐ Expenditures represent one-time costs:
- ☐ Legislation provides local option:
- ☒ Key variables cannot be estimated with certainty at this time: Amount of time to request and review criminal histories and court records; number of hearings

### Estimated revenue impacts to:

None

### Estimated expenditure impacts to:

Non-zero but indeterminate cost and/or savings. Please see discussion.

## Part III: Preparation and Approval

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Leg. Committee Contact: Corban Nemeth	Phone: 360-786-7736	Date: 03/04/2020
Agency Approval: Alice Zillah	Phone: 360-725-5035	Date: 03/10/2020
OFM Review: Gaius Horton	Phone: (360) 902-0608	Date: 03/11/2020

## **Part IV: Analysis**

### **A. SUMMARY OF BILL**

*Provide a clear, succinct description of the bill with an emphasis on how it impacts local government.*

#### **CHANGES FROM PRIOR BILL VERSION:**

This striker version of the bill would create an Administrative Office of the Courts (AOC) study and pilot project on streamlining the vacation of criminal convictions, as opposed to the prior bill version which would have had AOC conduct a pilot program of an automated vacating system followed by statewide implementation. Subsequently, local government expenditures resulting from a statewide vacating system are not assumed under this version.

The indeterminate nature of expenditures remains for prosecutors to make objection determinations and participate in hearings in whichever county is selected for the pilot program. However, expenditures for hearings may be impacted as compared to the prior bill version due to the following amendments:

- AOC is given the option to limit its screening process to certain types of classes of convictions or defendants
- the contested hearing process is removed, with the bill instead allowing that a court may decline to vacate a conviction after an administrative review or objection demonstrates that the defendant does not meet the requirements, provided that the prosecutorial objection is made with sufficient particularity and supporting information.

The removal of contested hearings from the bill would also eliminate costs for public defenders; for legal representation that defendants may need for any new hearings that would still result from the bill—such as additional administrative vacation hearings—it is assumed to be provided by sources other than indigent defense.

This striker version would also expand the types of organizations AOC must consult with to perform its evaluation under the bill. Costs to these organizations at the local government level due to these consultations are assumed to be de minimis.

#### **SUMMARY OF CURRENT BILL VERSION:**

Sections 1 and 2 of this legislation would create a study and a pilot program for a court-driven process to review and vacate criminal convictions based on current statutory eligibility requirements. The pilot program would run from July 1, 2021, through June 30, 2022, in a county selected by AOC, and would require—following notices by AOC—sentencing administrative vacation hearings to determine whether to vacate convictions based on current requirements for the particular offenses. AOC would have the option to limit hearings to certain types of classes of convictions. A defendant would be presumed to meet the requirements and the court must vacate the conviction, unless it declines due to:

- court records indicating that the defendant does not meet the requirements, or
- the prosecutor objecting on the basis that the defendant does not meet the requirements or is currently incarcerated for a criminal offense, provided the objection is made with sufficient particularity and supporting information.

Section 1 would also require AOC to submit reports to evaluate how it assesses data and provides notifications for the conviction vacation hearing process, as well as the status and findings of the pilot program. To perform its evaluations, AOC would consult with county clerks and court administrators, judges, prosecuting attorneys, defense attorneys, the Department of Corrections, county and city departments, national and local organizations with interest or experience in vacating or sealing criminal convictions, national and local organizations with experience in developing automated vacating or sealing procedures in other states, organizations and persons with relevant technical expertise in computer and records systems, and any other entities with relevant records.

### **B. SUMMARY OF EXPENDITURE IMPACTS**

*Briefly describe and quantify the expenditure impacts of the legislation on local governments, identifying the expenditure provisions by section number, and when appropriate, the detail of expenditures. Delineate between city, county and special district impacts.*

#### **CHANGES IN EXPENDITURE IMPACTS FROM PRIOR BILL VERSION:**

Costs to prosecutors under the striker version of this bill remain indeterminate in nature, but are limited to the county selected by AOC for the vacating records pilot program for its duration. Furthermore, the number of hearings prosecutors will need to take part in is impacted—as well as the associated costs—as compared to the prior bill version by:

- AOC being given the option to limit its screening process to certain types and classes of convictions or defendants
- the removal of the contested hearing process from the bill.

No local government expenditures are assumed beyond the pilot program, though it is acknowledged that should the state move forward with expanding the program statewide, the associated costs would likewise expand.

The removal of contested hearings would eliminate costs under the bill for public defenders. According to the Washington Defenders

Association (WDA), public defenders typically do not represent clients in actions to seal court records. Therefore, it is assumed that any legal representation defendants may need for new hearings that would still result from the bill—such as additional administrative vacation hearings—would be provided through sources other than indigent defense.

This striker version would also expand the types of organizations AOC must consult with to perform its evaluation under the bill. Costs to these organizations at the local government level due to these consultations are assumed to be de minimis.

#### SUMMARY OF CURRENT BILL EXPENDITURE IMPACTS:

This legislation would have an indeterminate expenditure impact on the county selected by AOC for the vacating record pilot program for its duration (July 1, 2021, through June 30, 2022). At this time, it is unknown which county AOC would select for the pilot program.

For prosecutors to make determinations on whether or not to object about if a defendant meets requirements to have their conviction vacated, staff time would be dedicated to requesting criminal histories and court records and to reviewing those criminal histories and court records. It is unknown how many requests would need to be made under the pilot program, or how long the request and review process would take.

Additional hearings—such as administrative vacation hearings—would result in attorney costs for county prosecutors, though it is unknown how many hearings would occur under the pilot program. However, according to WDA, public defenders typically do not represent clients for actions that would be taken under this legislation, meaning there would be no additional attorney costs for indigent defense.

Though costs to local governments end with the pilot program in the underlying bill, it is acknowledged that should the state move forward with expanding the program statewide, the associated costs would likewise expand.

Costs to local governments due to AOC consulting with prosecuting attorneys, defense attorneys, county and city departments, local organizations with interest or experience in vacating or sealing criminal convictions, organizations and persons with relevant technical expertise in computer and records systems, and any other entities with relevant records for its evaluative report are assumed to be de minimis.

Please see the AOC fiscal note for impacts to courts.

### **C. SUMMARY OF REVENUE IMPACTS**

*Briefly describe and quantify the revenue impacts of the legislation on local governments, identifying the revenue provisions by section number, and when appropriate, the detail of revenue sources. Delineate between city, county and special district impacts.*

This legislation would have no revenue impacts for local governments.

#### SOURCES:

Administrative Office of the Courts

Washington Association of Prosecuting Attorneys

Washington Defenders Association